

FILED
JAN 23 1991
DEPARTMENT OF REAL ESTATE

By Laurie A. Zean

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MICHAEL GEORGE BLASQUEZ,)
Respondent.)

NO. H-2176 SAC

ORDER GRANTING REINSTATEMENT OF LICENSE

On February 6, 1987, a Decision was rendered herein
revoking the real estate salesperson license of Respondent, but
granting Respondent the right to the issuance of a restricted real
estate salesperson license. A restricted real estate salesperson
license was issued to Respondent on March 27, 1987, and Respondent
has operated as a restricted licensee without cause for
disciplinary action against Respondent since that time.

On August 30, 1990, Respondent petitioned for
reinstatement of said real estate salesperson license, and the
Attorney General of the State of California has been given notice
of the filing of said petition.

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1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate
6 salesperson license and that it would not be against the public
7 interest to issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
9 for reinstatement is granted and that a real estate salesperson
10 license be issued to Respondent if Respondent satisfies the
11 following conditions within six (6) months from the date of this
12 Order:

13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: January 17, 1991

22 DEPARTMENT OF REAL ESTATE

23
24 By:


JOHN R. LIBERATOR

Chief Deputy Commissioner

FILED
FEB 09 1987

DEPARTMENT OF REAL ESTATE

By Laura A. Beck

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MICHAEL GEORGE BLASQUEZ,)
Respondent.)

NO. H-2176 SAC
N 27110

DECISION AFTER REJECTION

The matter came on for hearing before Catherine B. Frink, Administrative Law Judge of the Office of Administrative Hearings, in Sacramento, California, on September 5, 1986.

David A. Peters, Counsel represented the complainant.

David L. Robertson, Attorney at Law, represented respondent MICHAEL GEORGE BLASQUEZ, who was also present.

Evidence was received, the hearing was closed and the matter was submitted.

On September 24, 1986, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as my Decision herein. Pursuant to Section 11517(c) of the Government

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1 Code of the State of California, respondents were served with
2 NOTICE of my determination not to adopt the Proposed Decision of
3 the Administrative Law Judge along with a copy of said Proposed
4 Decision. Respondents were notified that the case would be
5 decided by me upon the record, the transcript of proceedings held
6 on September 5, 1986 and upon written argument offered by
7 respondents.

8 Respondent has submitted written argument.

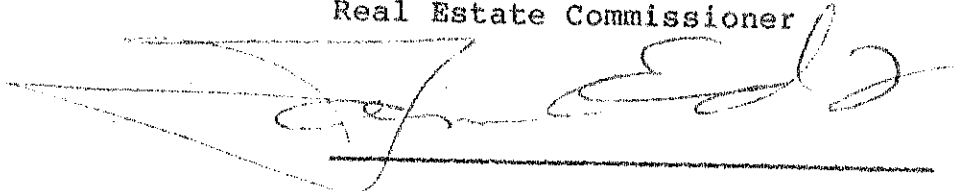
9 I have given careful consideration on the record in this
10 case including the transcript of proceedings of September 5, 1986
11 and respondent's written argument .

12 The Proposed Decision dated September 5, 1986, of the
13 Administrative Law Judge of the Office of Administrative Hearings
14 is hereby adopted as the Decision of the Real Estate Commissioner
15 in the above-entitled matter.

16 This Decision shall become effective at 12 o'clock noon
17 on March 2, 1987.

18 DATED: 2-6-87

19 JAMES A. EDMONDS, JR.
20 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against)
)
MICHAEL GEORGE BLASQUEZ)
)
Respondent.)

CASE NO. H-2176 SAC

OAH NO. N-27110

PROPOSED DECISION

Catherine B. Frink, Administrative Law Judge of the Office of Administrative Hearings, heard this matter on September 5, 1986, at Sacramento, California.

David A. Peters, Counsel, represented the complainant.

Respondent was present and was represented by David L. Robertson, Attorney at Law.

Upon motion by complainant, the accusation was amended as follows: paragraph IV, page 2, line 11, change "through" to "and".

Evidence was received, the hearing was closed and the matter was submitted.

The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

The complainant, Charles W. Koenig, Deputy Real Estate Commissioner of the State of California, made the accusation in his official capacity.

II

Michael George Blasquez (hereinafter "respondent") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code as a real estate salesperson.

III

At all times mentioned herein, respondent was employed in his capacity as a real estate salesperson by Stephen Allen Holderfield

(hereinafter "Holderfield") who at all times mentioned herein was licensed by the California Department of Real Estate as a real estate broker.

IV

On or about April 26, 1985, Alexander and Marina Gushansky (hereinafter "the Gushanskys") listed for sale with Holderfield through respondent certain real property, consisting of two rental units, owned by them and commonly known as 4529 and 4531 Bomark, Sacramento, California (hereinafter "the property").

V

On or about September 18, 1985, John E. Pottorf (hereinafter "Pottorf"), acting as an agent for William and Judy McGraw (hereinafter "the McGraws") submitted an offer to purchase the property.

VI

On or about September 24, 1985, the Gushanskys made a counter offer which was accepted by the McGraws on October 2, 1985. Under the terms of the Purchase Agreement, the purchase price of the property was \$76,900, and the offer was contingent upon the McGraws obtaining a conventional loan for 75 percent of the purchase price.

VII

The McGraws applied for an investment loan from Weyerhaeuser Mortgage Company, Sacramento, California (hereinafter "Weyerhaeuser"). On or about October 15, 1985, Weyerhaeuser notified its branch managers and branch office supervisors of changes in its new loan policy based upon then newly issued FNMA Revised Underwriting Guidelines. Thereafter, on or about November 15, 1985, Royce Netherton (hereinafter "Netherton"), a loan officer for Weyerhaeuser, informed Pottorf and respondent that to qualify the McGraws for a loan it would be necessary to submit to Weyerhaeuser rental increase letters signed by the tenants of the property acknowledging that the rent would be increased to approximately \$380 per month commencing on January 1, 1986. Pottorf informed Netherton that the McGraws were unwilling to send notices to the tenants of the property because they were not the owners of the property. Thereafter, Netherton spoke to respondent and told him the signed acknowledgments were required as soon as possible; respondent expressed some uncertainty about his ability to obtain the acknowledgments, and Netherton told respondent to get them any way he could.

VIII

Immediately after speaking to Netherton, on or about November 26, 1985, respondent created false and fraudulent documents purportedly written by Rick Norvick (hereinafter "Norvick"), the manager of the property, and Mary E. Graeber (hereinafter "Graeber") and Shawna

Atwood (hereinafter "Atwood"), both tenants of the property, evincing Graeber's and Atwood's acknowledgment of a rental increase. Respondent created said documents by forging the signature of Norvick and by forging the handwriting and signatures of Atwood and Graeber.

IX

On or about November 26, 1985, respondent submitted the aforementioned fraudulent document to Weyehaeuser materially misrepresenting that Graeber and Atwood had acknowledge receipt of notification of rental increases, thereby seeking to induce Weyehaeuser into qualifying the McGraws for a loan on the property. Respondent's acts and omissions constituted the making of substantial misrepresentations, fraud and dishonest dealing.

X

Respondent testified that, in his discussion with Netherton, he felt he was being asked to "create" the documents himself in order to "paper" Netherton's file; respondent never even considered contacting the tenants to inform them of the rental increases and obtain authentic acknowledgments. Respondent contends that he never intended to deceive Netherton with the false documents, as demonstrated by the fact that respondent immediately drew up the documents and sent them to Netherton's office about one hour later. Respondent contends that Netherton could not reasonably have believed that respondent had obtained authentic documents so quickly. This contention is without merit. Respondent attempted to simulate the writing of Norvick, Graeber and Atwood from documents he had in his possession which contained their handwriting; in the purported acknowledgment by Graeber, respondent mentioned a "sticking door" to make the letter seem more authentic. Respondent's conduct was clearly intended to deceive the reader of those documents into believing they were actually written by Norvick, Graeber and Atwood.

Respondent further argues that the penalty imposed herein should be minimal, in view of the fact that no one was injured by his misconduct. Such lack of injury is fortuitous, but it is not a significant factor in mitigation. As noted in Marks v. Watson, (1952) 112 C.A. 2d 196 at 200:

"The 'degree of harm' to the victim is not a matter of controlling importance in fixing the penalty in disciplinary proceedings. It is simply one of the facts to be taken into consideration. The basic reason for disciplinary actions in matters of this kind is the protection of the public against unethical and dishonest conduct on the part of those engaged in the real estate business."

XI

Respondent has been employed in the real estate profession for more than 9 years. Respondent expressed remorse for his miscon-

duct which he attributed to a "lapse of judgment" which will not re-occur. As soon as respondent became aware that the real estate transaction herein was being questioned, respondent made full disclosure of his conduct to his employing broker, Holderfield, and together they contacted the Department of Real Estate; respondent cooperated fully in the investigation. Holderfield testified that he reviewed all of respondent's files after this incident came to light, and he is convinced that the misconduct is an isolated incident. Holderfield testified that he would be willing to hire respondent with a restricted license and provide close supervision to respondent.

DETERMINATION OF ISSUES

Clear and convincing evidence to a reasonable certainty establishes cause for disciplinary action pursuant to Business and Professions Code Sections 10176(a) and (i).

ORDER

All licenses and license rights of respondent Michael George Blasquez under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) are revoked. However, a restricted real estate salesperson's license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee within thirty (30) days of the effective date of this decision. The restricted license issued to respondent shall be subject to all the provisions of Section 10156.7 of the Business and Professions Code and to the following restrictions imposed under the authority of Section 10156.6 of said Code:

- A. Respondent's license shall be suspended for a period of ninety (90) days.
- B. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which bears a substantial relationship to respondent's fitness or capacity as a real estate licensee.
- C. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
- D. Respondent shall submit with his application for license under an employing broker or his application for a transfer to a new employing

broker a statement signed by the prospective employing broker which shall certify:

1. That the decision of the Commissioner which granted the right to a restricted license has been read;
 2. That close supervision will be exercised over the performance by the restricted licensee of activities for which a real estate license is required.
- E. Respondent shall, within six (6) months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for hearing pursuant to the Administrative Procedure Act to present such evidence.
- F. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the restrictions of the restricted license, until three (3) years have elapsed from the date of issuance of the restricted license.

Date: September 24, 1956

Catherine B. Frink
CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings

FILED
OCT 14 1986

DEPARTMENT OF REAL ESTATE

By Laura A. Beck

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MICHAEL GEORGE BLASQUEZ,) NO. H-2176 SAC
Respondent.) N 27110

NOTICE

TO: MICHAEL GEORGE BLASQUEZ, Respondent
and
DAVID L. ROBERTSON, his Counsel

YOU ARE HEREBY NOTIFIED that the Proposed Decision
herein dated September 24, 1986, of the Administrative Law Judge
is not adopted as the Decision of the Real Estate Commissioner. A
copy of the Proposed Decision dated September 24, 1986, is
attached hereto for your information.

In accordance with Section 11517(c) of the Government
Code of the State of California, the disposition of this case
will be determined by me after consideration of the record
herein including the transcript of the proceedings held on

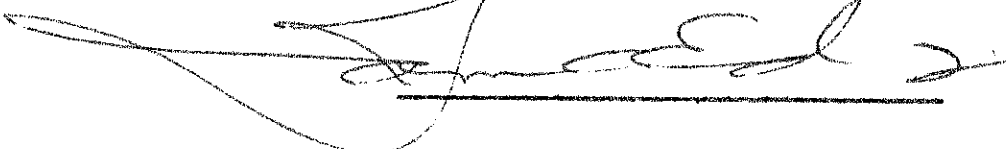
/ / / / /

1 September 5, 1986, and any written argument hereafter submitted on
2 behalf of respondent and complainant.

3 Written argument of respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of September 5, 1986, at the Sacramento office
6 of the Department of Real Estate unless an extension of the time
7 is granted for good cause shown.

8 Written argument of complainant to be considered by me
9 must be submitted within 15 days after receipt of the argument of
10 respondent at the Sacramento office of the Department of Real
11 Estate unless an extension of the time is granted for good cause
12 shown.

13 DATED: 10-7-86

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15 JAMES A. EDMONDS, JR.
16 Real Estate Commissioner
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against	)	
	)	
MICHAEL GEORGE BLASQUEZ	)	CASE NO. H-2176 SAC
	)	
Respondent.	)	OAH NO. N-27110
	)	

PROPOSED DECISION

Catherine B. Frink, Administrative Law Judge of the Office of Administrative Hearings, heard this matter on September 5, 1986, at Sacramento, California.

David A. Peters, Counsel, represented the complainant.

Respondent was present and was represented by David L. Robertson, Attorney at Law.

Upon motion by complainant, the accusation was amended as follows: paragraph IV, page 2, line 11, change "through" to "and".

Evidence was received, the hearing was closed and the matter was submitted.

The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

The complainant, Charles W. Koenig, Deputy Real Estate Commissioner of the State of California, made the accusation in his official capacity.

II

Michael George Blasquez (hereinafter "respondent") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code as a real estate salesperson.

III

At all times mentioned herein, respondent was employed in his capacity as a real estate salesperson by Stephen Allen Holderfield

(hereinafter "Holderfield") who at all times mentioned herein was licensed by the California Department of Real Estate as a real estate broker.

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On or about April 26, 1985, Alexander and Marina Gushansky (hereinafter "the Gushanskys") listed for sale with Holderfield through respondent certain real property, consisting of two rental units, owned by them and commonly known as 4529 and 4531 Bomark, Sacramento, California (hereinafter "the property").

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On or about September 18, 1985, John E. Pottorf (hereinafter "Pottorf"), acting as an agent for William and Judy McGraw (hereinafter "the McGraws") submitted an offer to purchase the property.

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On or about September 24, 1985, the Gushanskys made a counter offer which was accepted by the McGraws on October 2, 1985. Under the terms of the Purchase Agreement, the purchase price of the property was \$76,900, and the offer was contingent upon the McGraws obtaining a conventional loan for 75 percent of the purchase price.

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Respondent testified that, in his discussion with Netherton, he felt he was being asked to "create" the documents himself in order to "paper" Netherton's file; respondent never even considered contacting the tenants to inform them of the rental increases and obtain authentic acknowledgments. Respondent contends that he never intended to deceive Netherton with the false documents, as demonstrated by the fact that respondent immediately drew up the documents and sent them to Netherton's office about one hour later. Respondent contends that Netherton could not reasonably have believed that respondent had obtained authentic documents so quickly. This contention is without merit. Respondent attempted to simulate the writing of Norvick, Graeber and Atwood from documents he had in his possession which contained their handwriting; in the purported acknowledgment by Graeber, respondent mentioned a "sticking door" to make the letter seem more authentic. Respondent's conduct was clearly intended to deceive the reader of those documents into believing they were actually written by Norvick, Graeber and Atwood.

Respondent further argues that the penalty imposed herein should be minimal, in view of the fact that no one was injured by his misconduct. Such lack of injury is fortuitous, but it is not a significant factor in mitigation. As noted in Marks v. Watson, (1952) 112 C.A. 2d 196 at 200:

"The 'degree of harm' to the victim is not a matter of controlling importance in fixing the penalty in disciplinary proceedings. It is simply one of the facts to be taken into consideration. The basic reason for disciplinary actions in matters of this kind is the protection of the public against unethical and dishonest conduct on the part of those engaged in the real estate business."

XI

Respondent has been employed in the real estate profession for more than 9 years. Respondent expressed remorse for his miscon-

duct which he attributed to a "lapse of judgment" which will not re-occur. As soon as respondent became aware that the real estate transaction herein was being questioned, respondent made full disclosure of his conduct to his employing broker, Holderfield, and together they contacted the Department of Real Estate; respondent cooperated fully in the investigation. Holderfield testified that he reviewed all of respondent's files after this incident came to light, and he is convinced that the misconduct is an isolated incident. Holderfield testified that he would be willing to hire respondent with a restricted license and provide close supervision to respondent.

DETERMINATION OF ISSUES

Clear and convincing evidence to a reasonable certainty establishes cause for disciplinary action pursuant to Business and Professions Code Sections 10176(a) and (i).

ORDER

All licenses and license rights of respondent Michael George Blasquez under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) are revoked. However, a restricted real estate salesperson's license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee within thirty (30) days of the effective date of this decision. The restricted license issued to respondent shall be subject to all the provisions of Section 10156.7 of the Business and Professions Code and to the following restrictions imposed under the authority of Section 10156.6 of said Code:

- A. Respondent's license shall be suspended for a period of ninety (90) days.
- B. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which bears a substantial relationship to respondent's fitness or capacity as a real estate licensee.
- C. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
- D. Respondent shall submit with his application for license under an employing broker or his application for a transfer to a new employing

broker a statement signed by the prospective
employing broker which shall certify:

1. That the decision of the
Commissioner which granted the
right to a restricted license
has been read;
2. That close supervision will be
exercised over the performance
by the restricted licensee of
activities for which a real
estate license is required.

*not
adopted*

E. Respondent shall, within six (6) months from
the effective date of this decision, present
evidence satisfactory to the Real Estate
Commissioner that he has, since the most recent
issuance of an original or renewal real estate
license, taken and successfully completed the
continuing education requirements of Article
2.5 of Chapter 3 of the Real Estate Law for
renewal of a real estate license. If respon-
dent fails to satisfy this condition, the
Commissioner may order the suspension of the
restricted license until the respondent pre-
sents such evidence. The Commissioner shall
afford respondent the opportunity for hearing
pursuant to the Administrative Procedure Act to
present such evidence.

F. Respondent shall not be eligible to apply for
the issuance of an unrestricted real estate
license, nor the removal of any of the restric-
tions of the restricted license, until three
(3) years have elapsed from the date of
issuance of the restricted license.

Date: September 24, 1986

Catherine B. Frink
CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings

FILED
MAY 09 1986

DEPARTMENT OF REAL ESTATE

By Laura A. Beck

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 1719 - 24th Street
4 P.O. Box 160009
5 Sacramento, CA 95816
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7
8 (916) 739-3607
9

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12 MICHAEL GEORGE BLASQUEZ)
13 Respondent.)
14)

NO. H-2176 SAC

ACCUSATION

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California for cause of Accusation
17 against MICHAEL GEORGE BLASQUEZ (hereinafter "Respondent") is
18 informed and alleges as follows:

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19
20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1, of Division 4 of the
22 Business and Professions Code (hereinafter "Code") as a real
23 estate salesperson.

II

24
25 The Complainant, Charles W. Koenig, a Deputy Real Estate
26 Commissioner of the State of California, acting in his official
27 capacity as such and not otherwise, makes this Accusation against
28 respondent.

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III

At all times mentioned herein, Respondent was employed in his capacity as a real estate salesperson by Stephen Allen Holderfield (hereinafter "Holderfield") who at all times mentioned herein was licensed by the California Department of Real Estate as a real estate broker.

IV

On or about April 26, 1985, Alexander and Marina Gushansky (hereinafter "Gushanskys") listed for sale with Holderfield through Respondent certain real property owned by them and commonly known as 4529 through 4531 Bomark, Sacramento, California (hereinafter "Property").

V

On or about September 18, 1985, John E. Pottorf, acting as an agent for William and Judy McGraw (hereinafter "McGraws") submitted an offer to purchase the Property.

VI

On or about September 24, 1985, the Gushanskys made a counter offer which was accepted by the McGraws.

VII

On or about November 15, 1985, Royce Netherton (hereinafter "Netherton") loan officer for Weyerhaeuser Mortgage Company, Sacramento, California (hereinafter "Weyerhaeuser") informed Respondent that to qualify the McGraws for a loan it would be necessary to submit to Weyerhaeuser rental increase letters signed by the tenants of the Property acknowledging that the rent would be increased to approximately \$380. per month commencing on January 1, 1986.

VIII

On or about November 15, 1985, Respondent created false and fraudulent documents purportedly written by Rick Norvick (hereinafter "Norvick"), Mary E. Graeber (hereinafter "Graeber") and Shawna Atwood (hereinafter "Atwood") evidencing Graeber and Atwood's acknowledgment of a rental increase. Respondent created said documents by forging or causing to be forged the handwriting and signatures of Norvick, Graeber and Atwood.

IX

On or about November 15, 1985, Respondent submitted the aforementioned fraudulent documents to Weyerhaeuser materially misrepresenting that Graeber and Atwood had agreed to rental increases thereby seeking to induce Weyerhaeuser into qualifying the McGraws for a loan on the Property.

X

The acts and omissions of Respondent set forth above constitute the making of substantial misrepresentations, and fraud or dishonest dealing, and are cause under Sections 10176(a) and 10176(i) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate.

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1 WHEREFORE, complainant prays that a hearing be conducted
2 on the allegations of this accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against all
4 licenses and license rights under the Real Estate Law (Part 1 of
5 Division 4 of the Business and Professions Code) of Respondent
6 MICHAEL GEORGE BLASQUEZ, and for such other and further relief as
7 may be proper under other applicable provisions of law.

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14 CHARLES W. KOENIG
 Deputy Real Estate Commissioner

15 Dated at Sacramento, California
16 this 6th day of May, 1986.